REMARKS

The foregoing amendment amends claims 1 and 6. Pending in the application are claims 1-15, of which claims 1 and 6 are independent. The following comments address all stated grounds for rejection and place the presently pending claims, as identified above, in condition for allowance.

Interview and Claim Amendments

Applicants thank the Examiner for the courtesy of a telephone interview on October 26, 2006. Based on the discussion with the Examiner during the interview, Applicants amend claims 1 and 6 to clarify that the communication holes form a manifold that is different than the connecting flow passage, and that the manifold and the connecting flow passage penetrate through the separator. Support for the claim amendment can be found at the originally filed figures and corresponding descriptions in the specification of the pending application. No new matter is added. The Examiner indicates that the claim amendment can overcome the cited prior art references.

Priority

In the Office Action, the Examiner suggests that Applicants amend the specification of the pending application to recite a specific reference to the earlier filed application. Applicants note that a preliminary amendment was filed on October 3, 2003 to add references to earlier filed applications.

Information Disclosure Statement

In the Office Action, the Examiner requests copies of JP 64-71071 and JP 8-138694, which were submitted in the IDS on April 16, 2006 and October 3, 2003. Applicants herewith submit copies of those documents for the Examiner's consideration.

Rejection of Claims 6, 7 and 11-15 under 35 U.S.C. §102(b)

Claims 6, 7 and 11-15 are rejected under 35 U.S.C. §102(b) as being anticipated by WO96/37920 ("Okamoto"), which is equivalent to U.S. Patent No. 6,214,486. Applicants respectfully traverse the rejection.

Claim 6 is directed to a fuel cell including a fuel cell unit and metal separators. The fuel cell includes communication holes forming a manifold penetrating the separators. A fuel gas or an oxygen-containing gas flows through the manifold. At least one gas flow passage is provided on the electrode power-generating surface of the separator for supplying the fuel or oxygen-containing gas to the anode or cathode electrode. At least one connecting flow passage is provided to penetrate through the separator. The connecting flow passage is different than the manifold and connects the communication hole on a surface opposite to the electrode power-generating surface and the gas flow passage on the electrode power-generating surface. Claims 7 and 11-15 depend from claim 6 and add separate and patentable limitations to claim 6.

Applicants submit that Okamoto does not disclose *communication holes forming a manifold penetrating through the separator, and at least one connecting flow passage penetrating through the metal separator, the connecting flow passage being different than the manifold, the connecting flow passage connecting the communication hole on a surface opposite to the electrode power-generating surface and the gas flow passage on the electrode power-generating surface*, as recited in claim 6.

The Okamoto reference discloses oxygen gas flow passage recesses (247a, 247b, 250b) provided on the same side of the plate (246). The Okamoto reference also discloses that the oxygen gas flow passage recesses (247a, 247b, 250b) are connected to the oxygen containing gas introduction hole (246b) and the oxygen containing gas discharge hole (246e). The Okamoto reference, however, does not disclose that at least one connecting flow passage penetrates through the metal separator, is different than the manifold, and connects the communication hole on a surface *opposite* to the electrode power-generating surface and the gas flow passage on the electrode power-generating surface.

In Okamoto, recesses (247a, 247b) connect the oxygen containing gas introduction hole (246b) and the oxygen containing gas passage (250b). In Okamoto, recesses (247a, 247b) connect the oxygen containing gas introduction hole 246b and the oxygen containing gas passage 250b on the *same* surface of the plate (246). In contrast, the connecting flow passage recited in claim 1 penetrates through the metal separator, and connects the communication hole on a surface *opposite* to the electrode power-generating surface and the gas flow passage on the electrode power-generating surface. The Okamoto reference does not teach or suggest the connecting flow passages recited in claim 6.

In light of the foregoing arguments, Applicants submit that Okamoto does not disclose each and every element of claim 6. Applicants therefore request that the Examiner reconsider and withdraw the rejection and pass the claims to allowance.

Rejection of Claims 1-15 under 35 U.S.C. §102(b)

Claims 1-15 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,998,055 (" Kurita"). Applicants respectfully traverse the rejection.

Claim 1 is directed to a fuel cell including a fuel cell unit and separators. The fuel cell includes communication holes forming a manifold penetrating the separator. A fuel gas or an oxygen-containing gas flows through the manifold. At least one gas flow passage is provided on the electrode power-generating surface of the separator for supplying the fuel or oxygen-containing gas to the anode or cathode electrode. At least one connecting flow passage is provided to penetrate through the separator. The connecting flow passage is different than the manifold. The connecting flow passage connects the communication hole on a surface opposite to the electrode power-generating surface and the gas flow passage on the electrode power-generating surface. Claim 2-5 depend from claim 1 and add separate and patentable limitations to claim 6. Claims 7-15 depend from claim 6 and add separate and patentable limitations to claim 6.

Applicants submit that Kurita does not disclose *communication holes forming a manifold penetrating through the separator, and at least one connecting flow passage penetrating through* *the separator, the connecting flow passage being different than the manifold, the connecting flow passage connecting the communication hole on a surface opposite to the electrode power-generating surface and the gas flow passage on the electrode power-generating surface*, as recited in claims 1 and 6.

The Kurita reference discloses a gas passage plate (11) in which the inlet-side channel part (16A) communicates with the inlet manifold (12), the outlet-side channel part (16B) communicates with the outlet manifold (13), and the intermediate channel part (18) connects the inlet-side channel part (16A) and the outlet-side channel part (16B). The Kurita reference also discloses that the inlet-side channel part (16A) and the outlet-side channel part (16B) are formed in the shape of lattice. The Kurita reference, however, does not disclose a connecting flow passage penetrating through the separator. In Kurita, the channel parts do not penetrate the separator, and each channel part is provided on a *single* side of the separator. Furthermore, Kurita does not disclose that the connecting flow passage connects the communication hole on a surface *opposite* to the electrode power-generating surface and the gas flow passage on the electrode power-generating surface, as recited in the present invention. The inlet or outlet channel part in Kurita connects with the inlet or outlet manifold on the *same* side of the separator that the inlet or outlet channel part connects with the intermediate channel part on.

In light of the foregoing arguments, Applicants submit that Kurita does not disclose each and every element of claims 1 and 6. Applicants therefore request that the Examiner reconsider and withdraw the rejection and pass the claims to allowance.

Double Patenting Rejection

Claims 6, 7 and 11-15 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-9 of U.S. patent No. 6,686,085. In response, Applicants submit a terminal disclaimer to overcome the rejection based on a non-statutory double patenting ground.

Conclusion

For the foregoing reasons, Applicants contend that pending claims 1-15 distinguish patentably over the prior art and that the pending application is in condition for allowance.

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